

Maintenance of Effort – *IDEA* Entitlement Funding

What is meant by “Maintenance of Effort”?

The term “Maintenance of Effort,” often shortened to “MOE,” refers to the requirement placed upon many federally funded grant programs that the State Education Agency (SEA) and Local Education Agencies (LEA) demonstrate that the level of **state** and **local** funding remains relatively constant from year to year. Failure to meet MOE requirements may result in the obligation of an LEA to repay funds, a process described toward the end of this summary.

The rules regulating MOE differ depending on the federal program requiring the effort. Some grant programs do not require MOE, whereas some grant programs such as *IDEA* have very specific rules documented in its regulations.

MOE and the Individuals with Disabilities Education Act (IDEA)

Part B of the *IDEA*, which includes the language regarding *IDEA* funding allocations to the SEA and LEAs, includes MOE provisions applicable separately at both the state and local levels.

At the state level, Part B prohibits a state from reducing state financial support for special education below the amount of that support for the preceding fiscal year (34 CFR §300.163). In Wisconsin, we call this state financial support “special education categorical aid.” Approximately \$300 million is paid out to LEAs each year through special education categorical aid to help cover the local costs of providing special education and related services for children with disabilities. This is not federal funding, but rather an appropriation made in Wisconsin’s state budget. To meet the *IDEA* MOE state-level expectation, Wisconsin must continue to fund special education at this level every year.

At the local level, *IDEA* requires that LEAs must budget the same amount of local / state funding for special education and related services as it expended in the previous fiscal year. There are provisions in *IDEA* to allow for decreases in an LEA’s MOE from one fiscal year to the next.

The most significant of these provisions is often referred to as the 50% rule. In the case of the 50% rule, if an LEA receives an increase in its *IDEA* flow-through allocation (611 funds) from one fiscal year to the next, the LEA may reduce its MOE obligations by a value of half of the increased amount (34 CFR §300.205 (a)). An increase in the *IDEA* preschool allocation (619 funds) is *not* taken into consideration. Local funds “freed-up” must be used to carry out activities that could be supported with funds under the *Elementary and Secondary Education Act (ESEA)* (34 CFR §300.205(b)).

Sample base year that includes a \$150,000 allocation with an LEA’s MOE obligation of \$800,000:

FY 2009 Flow-through allocation: \$150,000	FY 2009 LEA MOE: \$800,000
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Here is an example of a \$100,000 increase in the LEA’s *IDEA* allocation the following fiscal year:

FY 2010 Flow-through allocation: \$250,000	50% of the value of \$100,000 (the increase) is \$50,000. The LEA has the option of moving \$50,000 of existing locally-funded special education costs to <i>IDEA</i> funding.	FY 2010 LEA’s new level of MOE: \$750,000
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Other exceptions to lowering MOE (local/state costs not charged to a Federal grant) from one fiscal year to the next include: (34 CFR §300.204)

1. The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel.

EXAMPLE: A special education teacher retires, and the salary and fringe of this long-term and experienced teacher is \$90,000. The LEA replaces this position with a qualified special education teacher at a salary and fringe of \$60,000. The LEA would be allowed to reduce their MOE obligation by \$30,000 (difference between the experienced teacher salary / new teacher salary).

2. A decrease in enrollment of children with disabilities.

EXAMPLE: AN LEA sees a drop in enrollment of children with disabilities; however, the per pupil cost for a special education student meets or exceeds the per pupil cost spent per special education student the previous year. If the number of children with disabilities decreases, and the amount spent per special education student also decreases below the previous year's amount, then MOE *cannot be reduced*.

2009 Spec. Ed. Enrollment: 45	2009 MOE: \$100,000	2009 Per Pupil Cost: \$2,222 (100,000 / 45)	Example Base Year
2010 Spec. Ed. Enrollment: 40	2010 MOE: \$95,000	2010 Per Pupil Cost: \$2,375 (95,000 / 40)	
2010 Spec. Ed. Enrollment: 40	2010 MOE: \$75,000	2010 Per Pupil Cost: \$1,875 (75,000 / 40)	Acceptable reduction of MOE: <ul style="list-style-type: none">• Decrease in special education student enrollment from 2009• <u>AND</u> per pupil cost was maintained Unacceptable reduction of MOE: <ul style="list-style-type: none">• Decrease in special education student enrollment from 2009; however,• Per pupil cost was <u>NOT</u> maintained

3. A child with a disability that incurs an exceptionally costly program either leaves the district, ages out, or no longer needs the special education program.
4. The assumption of the program cost by the IDEA high cost fund for a child with a disability.
5. The termination of costly expenditures for long-term purchases, such as the acquisition of a vehicle used for special education transportation.

Unlike the 50% rule, if an LEA reduces MOE through any of the above exceptions, these costs are not moved to IDEA grant funding but rather removed from the local special education budget entirely.

LEAs Restricted from Reducing Maintenance of Effort

There are provisions of the *IDEA* that limit whether an LEA may reduce local effort. Under the following circumstances, an SEA must prohibit the LEA from reducing its MOE:

- Under *IDEA* section 616(f), the SEA determines that an LEA is not meeting the requirements of Part B, including meeting targets in the [state's performance plan](#) (SPP). Therefore, if an LEA does not receive an SPP indicator determination of "Meets Requirements," then the LEA cannot reduce its MOE.
- LEAs that have been identified as having [significant disproportionality](#).

- The SEA has taken responsibility for children with disabilities in an LEA because the LEA is unable to establish and maintain programs of FAPE, or the SEA has taken action against the LEA under IDEA section 616.

MOE and Coordinated Early Intervening Services

IDEA 2004 contains a provision at 20 U.S.C. 1413 (f), which permits LEAs to use up to 15 percent of their Part B funds for any fiscal year to develop and implement coordinated early intervening services (CEIS). This provision became effective July 1, 2005.

Coordinated early intervening services are intended for students who have not been identified as students with disabilities under *IDEA* but who are determined to need additional academic and behavioral supports to succeed in general education.

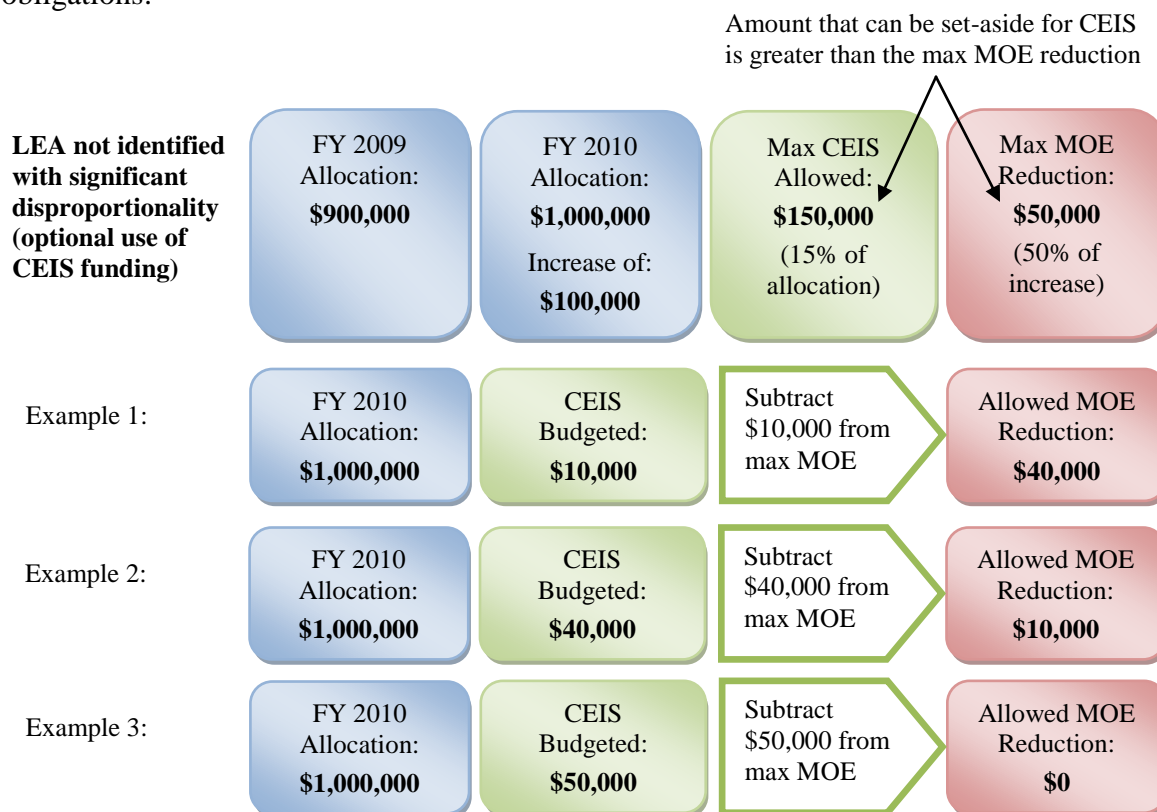
IDEA 2004 **requires** LEAs that have been identified as having significant disproportionality to reserve and expend 15% of Part B funds for coordinated early intervening services.

Although funded with *IDEA* dollars, coordinated early intervening services are not special education services. Budgeting *IDEA* funds for CEIS activities has a direct and substantial impact on an LEA's ability to reduce its MOE through the 50% rule.

If the maximum amount an LEA may reduce its MOE obligation using the 50% rule is **less** than the maximum that may be set-aside for CEIS, then any *IDEA* dollars expended on CEIS activities must be deducted from the amount an LEA could have reduced their MOE through the 50% rule (34 CFR §300.205(d)).

SCENARIO 1: MOE max reduction amount is less than the amount that may be set-aside for CEIS

The following are examples of MOE reductions using the 50% rule when the maximum amount that may be set-aside for CEIS is greater than the maximum amount that may be used to reduce MOE obligations:

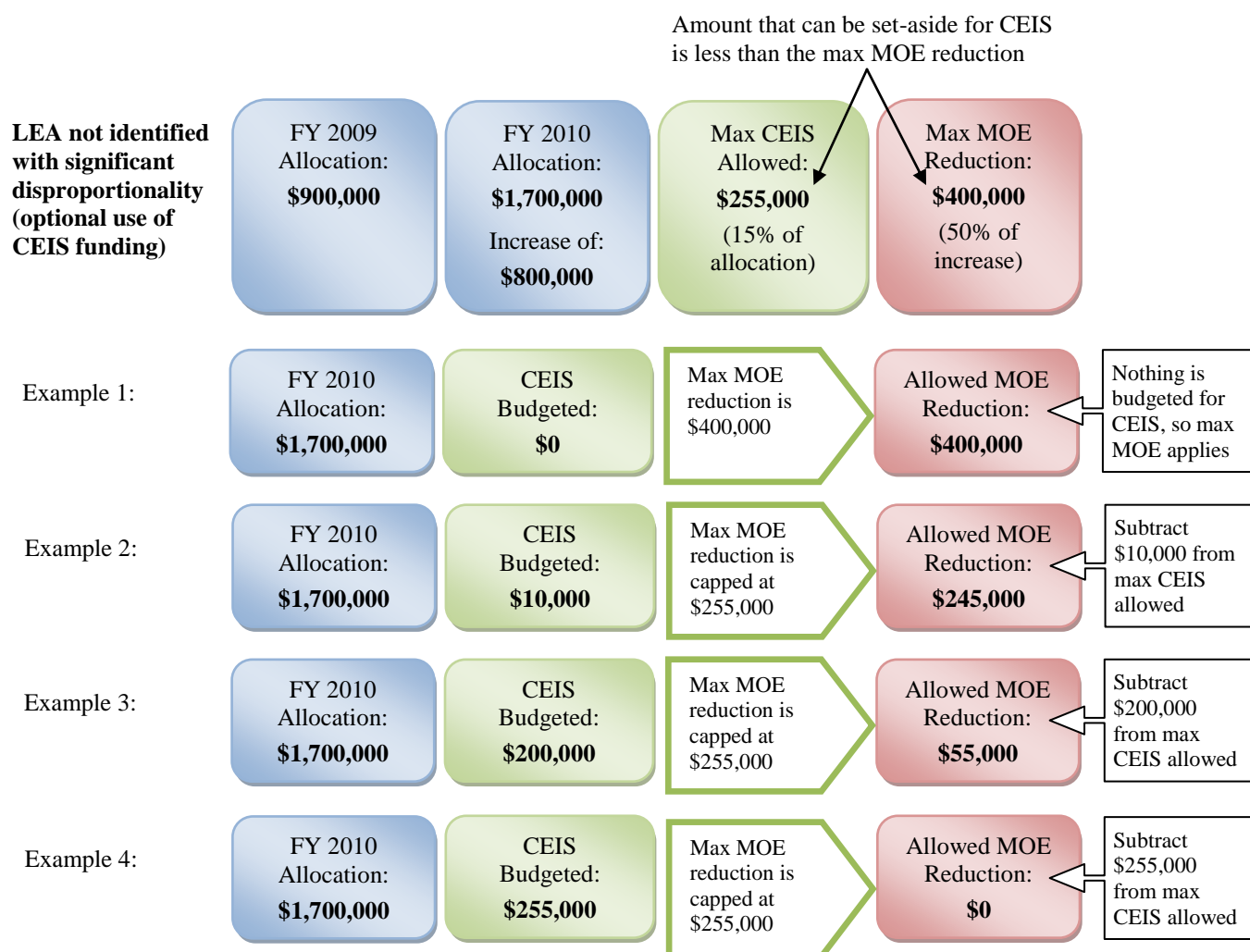


Please note that the previous examples only apply to reducing MOE with the 50% rule. The other exceptions to reducing MOE as described in 34 CFR §300.204 (listed on page 2 of this document) are not affected by an LEA's use of CEIS funds.

SCENARIO 2: MOE max reduction amount is greater than the amount that may be set-aside for CEIS

If an LEA decides to expend funds on CEIS **and** reduce MOE using the 50% rule, there is a cap on the amount allowed for MOE reduction. If the maximum amount an LEA may reduce its MOE obligation using the 50% rule is **greater** than the maximum amount that may be set-aside for CEIS, then a district's MOE reduction is capped at the maximum amount that may be set-aside for CEIS minus the actual amount expended on CEIS (34 CFR §300.226 (a)). Expending *IDEA* funds on CEIS automatically reduces the LEA's maximum MOE reduction to the same value as the maximum amount that may be set-aside for CEIS activities (15% of the Part B allocation).

The following are examples of MOE reductions using the 50% rule when the maximum amount that may be set-aside for CEIS is less than the maximum amount MOE may be reduced using the 50% rule:



For further assistance in determining an LEA's ability to reduce its MOE obligation in relation to the optional use of CEIS funds, a calculator has been created for Wisconsin LEAs. The calculator can be accessed at www.dpi.wi.gov/sped/xls/moe_calculator.xls.

DPI's Maintenance of Effort Review process

Besides complying with regulations for maintaining effort, MOE is also used to determine an LEA's eligibility for the *IDEA* grant. Both eligibility and compliance are determined through an analysis of LEA budget reports, annual reports, and other data collected by DPI.

LEAs are required to utilize the Wisconsin Uniform Financial Accounting Requirements (WUFAR). Under this system, LEAs account for all special education costs in "Fund 27." Costs are further identified by type of cost, department or program, and project codes. Project codes identify the funding source.

Each year, LEAs submit DPI's PI 1505 Special Education Annual Report, which is a report on the LEA's previous year's Fund 27 special education expenditures. Included in this report are costs identified with detailed project codes, such as "011" (local special education costs eligible for state special education categorical aid) and "019" (local special education costs not eligible for categorical aid) in Fund 27. The aggregated "011" and "019" expenditures (minus certain special education revenue sources) and the Fund 10 to Fund 27 transfer are used to determine an LEA's MOE.

LEAs submit DPI's PI 1504 Special Education Budget Report in December of each fiscal year. The PI 1504 Special Education Budget Report identifies the LEA's Fund 27 (special education) budget for the current fiscal year. The non-grant funded total on this report is then compared to the PI 1505 Special Education Annual Report total submitted for the previous fiscal year. This is a comparison of the current year's budget to the previous year's actual expenditures to determine if an LEA is maintaining state and locally funded efforts and thus eligible for *IDEA* grant funding. Prior to this determination, LEAs are eligible for grant funding because the district administrator signs an assurance that the requirements of MOE will be upheld by the LEA.

DPI tests MOE four ways to determine eligibility (an LEA only needs to meet one of the four tests):

- At least the same total combination of local and state funds are budgeted as the LEA expended on special education activities the previous fiscal year.
- At least the same amounts of local funds are budgeted as the LEA expended on special education activities the previous fiscal year.
- At least the same per capita amount from local and state funds are budgeted as the LEA expended on special education activities the previous fiscal year.
- At least the same per capita amount from local funds are budgeted as the LEA expended on special education activities the previous fiscal year.

If an LEA does not meet MOE requirements based on the comparison of the current year's budget to last year's actual expenditures, then the LEA must submit an amended PI 1504 Special Education budget report through the School Finance Reporting Portal or provide DPI with documentation on how one of the exceptions allowed in *IDEA* (34 CFR §300.204) has occurred.

LEAs can review the results of the MOE eligibility test through the Special Education web portal. This eligibility test report also provides the LEA with an opportunity to enter numbers into a scenario calculator to determine if compliance will be met through actual costs. Instructions for reviewing the MOE eligibility test can be downloaded from <http://dpi.wi.gov/sped/pdf/moe-eligibility-report-ta.pdf>.

A final analysis of an LEA's MOE compliance does not occur until after the fiscal year has closed. A comparison of the PI 1505 Special Education annual reports from one fiscal year to the next is completed to determine if MOE obligations have been met.

DPI tests MOE four ways to determine compliance (an LEA only needs to meet one of the four tests):

- At least the same total combination of local and state funds are budgeted as the LEA expended on special education activities the previous fiscal year.
- At least the same amounts of local funds are budgeted as the LEA expended on special education activities the previous fiscal year.
- At least the same per capita amount from local and state funds are budgeted as the LEA expended on special education activities the previous fiscal year.
- At least the same per capita amount from local funds are budgeted as the LEA expended on special education activities the previous fiscal year.

If an LEA does not meet MOE requirements based on the comparison of the current year's actual expenditures to last year's actual expenditures, DPI sends a letter to the LEA's district administrator regarding the reduction of the MOE. LEAs are encouraged to submit an explanation and documentation on how one or more of the exceptions under CFR §300.204 address the MOE compliance issue.

If the LEA is not able to establish an allowable exception to the MOE reduction, non-compliance will be determined. The LEA must pay the MOE difference to the Wisconsin Department of Public Instruction who in turn must send the funds back to the US Department of Education. Federal grant dollars may not be used to make this payment.

The following is an example of the reduction of an LEA's MOE and the amount the LEA must repay:

2009-10 PI 1505 SE (Annual)	2010-11 PI 1505 SE (Annual)	Max MOE Reduction (due to allocation increase)	Difference in fiscal years' MOE
\$1,300,000	\$1,290,000	\$2,500	\$-7,500

This demonstrates an LEA *reducing* its budget by \$10,000 between fiscal years 2010 and 2011 (Annual vs. Annual). Due to an increase in the LEA's IDEA flow-through allocation (611 funds), application of the 50% rule allows the LEA to reduce its MOE by \$2,500 (the LEA saw an increase in its flow-through allocation of \$5,000). The LEA did not expend any IDEA funding for CEIS.

However, the reduction taken by the LEA is greater than the max MOE reduction allowed through the 50% rule by \$7,500. If the LEA does not qualify for any of the other MOE reduction exceptions under 34 CFR §300.204, then the LEA will be required to repay the US Department of Education in the amount of \$7,500. Federal *IDEA* grant dollars cannot be used to make this payment.

MOE and the IDEA Recovery Funds through the American Recovery and Reinvestment Act

The *IDEA* Recovery Funds allocated to Wisconsin LEA's represent a large increase in *IDEA* allocation funds and impacts the amount that is taken into consideration using the 50% rule of the *IDEA* regulations. Local funds freed-up due to this regulation must be used to support ESEA activities. This includes any activities allowed under Title I, Impact Aid, and other ESEA programs. An LEA could use these funds to pay for activities that are currently being funded with other state or local funds or for new activities.

As long as an LEA is expending the required amount of local / state funding for special education as determined by maintenance of effort, costs can be moved from local funding to federal funding without violating the supplement/not supplant requirements of the *IDEA*. Therefore, if an LEA reduces its MOE through the 50% rule, existing special education costs funded with local / state dollars can be moved to the *IDEA* funding.

LEAs that reduce MOE through the 50% rule **must** reflect this reduction in the PI 1504 SE Budget Report submitted for fiscal year 2009-10 and the corresponding expenditures in the PI 1505 SE Annual Report that will be submitted during fiscal year 2010-11 to reflect fiscal year 2009-10.

If an LEA chooses to utilize the flexibility available through the 50% rule and reduce its MOE obligations, the LEA will be able to maintain the new reduced MOE amount in subsequent years, until that LEA increases the level of special education expenditures, using state or local funds, on its own.

Any funds budgeted for CEIS activities in fiscal year 2009-10 will **significantly** reduce the LEA's amount available for MOE reduction. See page 4 of this document for further information.

Utilizing MOE Reductions

When reducing local maintenance of effort obligations for special education, LEAs may utilize all of the options available:

- The voluntary departure or departure for just cause of special education personnel.
- Decrease in enrollment of children w/ disabilities.
- A “high cost” child moves out of the district, ages out, or no longer needs the program.
- The assumption of the program cost by the IDEA high cost fund for a child with a disability.
- The purchase of costly capital, such as a special education bus, is paid out.
- The “50%” rule (34 CFR §300.205 (a))

Applying IDEA MOE exceptions is not an “either/or” situation. All options may be utilized (if applicable) for the reduction of MOE. For example, an LEA is able to reduce its MOE by \$100,000 through the 50% rule, and an additional \$20,000 due to a high cost child moving out of the district, for a total MOE reduction of \$120,000.

Keep in mind, however, that the “freed-up” funds rule is only in regard to the 50% flexibility. In the example above, the LEA would only have to utilize \$100,000 on activities that support ESEA, and not have to include the \$20,000 decrease due to a high cost child moving out of the district. The district, in theory, could lower their overall district budget by \$20,000 and not violate the rules around “freed-up funding” and the 50% provision.

To determine whether or not an LEA is utilizing freed-up funds, view the IDEA MOE Eligibility Report – Scenario Calculator, available through the Special Education web portal. Instructions for this report can be downloaded from <http://dpi.wi.gov/sped/pdf/moe-eligibility-report-ta.pdf>.

IDEA REGULATIONS - 50% Rule

Sec. 300.205 Adjustment to local fiscal efforts in certain fiscal years.

(a) Amounts in excess. Notwithstanding Sec. 300.202(a)(2) and (b) and Sec. 300.203(a), and except as provided in paragraph (d) of this section and Sec. 300.230(e)(2), for any fiscal year for which the allocation received by an LEA under Sec. 300.705 exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by Sec. 300.203(a) by not more than 50 percent of the amount of that excess.

(b) Use of amounts to carry out activities under ESEA. If an LEA exercises the authority under paragraph (a) of this section, the LEA must use an amount of local funds equal to the reduction in expenditures under paragraph (a) of this section to carry out activities that could be supported with funds under the ESEA regardless of whether the LEA is using funds under the ESEA for those activities.

(c) State prohibition. Notwithstanding paragraph (a) of this section, if an SEA determines that an LEA is unable to establish and maintain programs of FAPE that meet the requirements of section 613(a) of the Act and this part or the SEA has taken action against the LEA under section 616 of the Act and subpart F of these regulations, the SEA must prohibit the LEA from reducing the level of expenditures under paragraph (a) of this section for that fiscal year.

(d) Special rule. The amount of funds expended by an LEA for early intervening services under Sec. 300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under paragraph (a) of this section.

Sec. 300.226 Early intervening services.

(a) General. An LEA may not use more than 15 percent of the amount the LEA receives under Part B of the Act for any fiscal year, less any amount reduced by the LEA pursuant to Sec. 300.205, if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three) who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment. (See Appendix D for examples of how Sec. 300.205(d), regarding local maintenance of effort, and Sec. 300.226(a) affect one another.)

Appendix D to Part 300--Maintenance of Effort and Early Intervening Services

LEAs that seek to reduce their local maintenance of effort in accordance with Sec. 300.205(d) and use some of their Part B funds for early intervening services under Sec. 300.226 must do so with caution because the local maintenance of effort reduction provision and the authority to use Part B funds for early intervening services are interconnected. The decisions that an LEA makes about the amount of funds that it uses for one purpose affect the amount that it may use for the other. Below are examples that illustrate how Sec. Sec. 300.205(d) and 300.226(a) affect one another.

Example 1: In this example, the amount that is 15 percent of the LEA's total grant (see Sec. 300.226(a)), which is the maximum amount that the LEA may use for early intervening services (EIS), is greater than the amount that may be used for local maintenance of effort (MOE) reduction (50 percent of the increase in the LEA's grant from the prior year's grant) (see Sec. 300.205(a)).

Prior Year's Allocation	\$900,000
Current Year's Allocation	\$1,000,000
Increase	\$100,000
Maximum Available for MOE Reduction	\$50,000
Maximum Available for EIS	\$150,000

If the LEA chooses to set aside \$150,000 for EIS, it may not reduce its MOE (MOE maximum \$50,000 less \$150,000 for EIS means \$0 can be used for MOE).

If the LEA chooses to set aside \$100,000 for EIS, it may not reduce its MOE (MOE maximum \$50,000 less \$100,000 for EIS means \$0 can be used for MOE).

If the LEA chooses to set aside \$50,000 for EIS, it may not reduce its MOE (MOE maximum \$50,000 less \$50,000 for EIS means \$0 can be used for MOE).

If the LEA chooses to set aside \$30,000 for EIS, it may reduce its MOE by \$20,000 (MOE maximum \$50,000 less \$30,000 for EIS means \$20,000 can be used for MOE).

If the LEA chooses to set aside \$0 for EIS, it may reduce its MOE by \$50,000 (MOE maximum \$50,000 less \$0 for EIS means \$50,000 can be used for MOE).

Example 2: In this example, the amount that is 15 percent of the LEA's total grant (see Sec. 300.226(a)), which is the maximum amount that the LEA may use for EIS, is less than the amount that may be used for MOE reduction (50 percent of the increase in the LEA's grant from the prior year's grant) (see Sec. 300.205(a)).

Prior Year's Allocation	\$1,000,000
Current Year's Allocation	\$2,000,000
Increase	\$1,000,000
Maximum Available for MOE Reduction	\$500,000
Maximum Available for EIS	\$300,000

If the LEA chooses to use no funds for MOE, it may set aside \$300,000 for EIS (EIS maximum \$300,000 less \$0 means \$300,000 for EIS).

If the LEA chooses to use \$100,000 for MOE, it may set aside \$200,000 for EIS (EIS maximum \$300,000 less \$100,000 means \$200,000 for EIS).

If the LEA chooses to use \$150,000 for MOE, it may set aside \$150,000 for EIS (EIS maximum \$300,000 less \$150,000 means \$150,000 for EIS).

If the LEA chooses to use \$300,000 for MOE, it may not set aside anything for EIS (EIS maximum \$300,000 less \$300,000 means \$0 for EIS).

If the LEA chooses to use \$500,000 for MOE, it may not set aside anything for EIS (EIS maximum \$300,000 less \$500,000 means \$0 for EIS).